

Message Text

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15

ACTION EB-11

INFO OCT-01 EA-11 ISO-00 CAB-09 CIAE-00 COME-00 DODE-00

INR-10 NSAE-00 RSC-01 FAA-00 L-03 SS-20 NSC-10 DRC-01

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R 070502Z DEC 73

FM AMEMBASSY JAKARTA

TO SECSTATE WASHDC 9862

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E.O. 11652: N/A

TAGS40 354,,ID

SUBJECT: CIVAIR: PAN AMERICAN SCHEDULE

REF : STATE 237222

1. SUMMARY. IN CONVERSATION DECEMBER 6, INDONESIAN DIRECTOR OF AIR TRAFFIC (DAT) GEORGE RISAKOTA DECLINED TO ACCEPT INTERPRETATION OF U.S.-INDONESIA BILATERAL PUT FORWARD IN REFTEL. HIS COMMITMENT TO AN INTERPRETATION UNFAVORABLE TO PAN AMERICAN (PAA) IS FOUNDED, HE SAYS, ON PRINCIPLES OF INTERPRETATION NOT SPELLED OUT IN THE BILATERAL BUT NONETHELESS UNIVERSALLY RESPECTED. THESE PRINCIPLES DO NOT PERMIT OMISSION OF TERRITORY OF EITHER OF THE CONTRACTING PARTNERS FROM THE AIR SERVICES OFFERED BY THEIR DESIGNATED CARRIERS PURSUANT TO THE BILATERAL. END SUMMARY

2. DAT SCOFFED AT POSITION PUT FORWARD REFTEL, SAYING THAT OF COURSE THE OMISSIONS AUTHORIZED BY PARAGRAPH 3 DID NOT INCLUDE "UNITED STATES" AT THE END OF THE ROUTE. HE ACKNOWLEDGED THAT THE LETTER OF THE AGREEMENT WOULD APPEAR TO PERMIT OMISSION OF THE UNITED STATES ALONG WITH OTHER POINTS, BUT SAID INTERNATIONALLY-ACCEPTED PRINCIPLES OF INTERPRETATION REQUIRED THAT THE UNITED STATES BE RETAINED AS POINT OF ORIGIN AND DESTINATION ALL U.S. DESIGNATED-CARRIER FLIGHTS.

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HE SUGGESTED, IN EFFECT, THAT USG RECONSIDER ITS INTERPRETATION,

ADDING THAT IF USG PERSISTED IN "CHILDISH" RESISTANCE TO REASON THERE WOULD BE NO OPTION BUT TO LAUNCH FULL-DRESS CONSULTATIONS-- WITH IMPLIED THREAT TO PAA SERVICE AS THEY UNFOLDED.

3. FRIDAY PA 812 SERVICE CHALLENGED BY DAT IS IDENTIFIED WITH APPROVED WEDNESDAY/SATURDAY PA 812, EXCEPT THAT IT OMITTS NANDI. ONLY SIGNIFICANT RESPECT IN WHICH FRIDAY SERVICE DIFFERS FROM THOSE APPROVED IS THAT LATTER ARE RECIPROCAL OF ANOTHER SERVICE, PAA 811, WHICH ON THE WAY FROM SYDNEY PASSES THROUGH JAKARTA IN ONE CASE AND DEN PASAR IN THE OTHER, WHILE FRIDAY PA 812 IS RECIPROCAL OF A SERVICE (PA 811) THAT SKIPS INDONESIA ON STRAIGHT SHOT SYDNEY-HONG KONG. THIS IS GROUND ON WHICH DAT ARGUES FRIDAY PA 812 DOES NOT ORIGINATE IN U.S. WHILE WEDNESDAY AND SATURDAY SERVICES DO FULFILL THIS REQUIREMENT. EMBOFF POINTED OUT THAT LETTER OF AGREEMENT PROVIDES FOR SKIPPING ANY OF SPECIFIED POINTS, NOT EXCLUDING JAKARTA AND BALI WHEREFOR RECIPROCAL OF SUCH A SERVICE (E.G., FRIDAY PA 812) COULD STILL BE CONSIDERED TO ORIGINATE IN U.S. HE RESPONDED THAT IF INDONESIAN POINTS WERE OMITTED, AGREEMENT MADE NO SENSE.

4. IF WE CANNOT ACCEPT DAT INTERPRETATION, OUR IMMEDIATE OBJECTIVE MUST BE TO HALT THE SWIFT EVOLUTION OF THIS

BUSINESS INTO A CAUSE CELEBRE. EFFORT GOT OFF TO BAD START WITH DAT'S WRITTEN REPLY TO PAA'S REQUEST FOR APPROVAL OF 1973/74 WINTER SCHEDULE, STATING IN PART (TRANSLATED), "PA 812 HONG KONG-JAKARTA-SYDNEY-NANDI-HONOLULU-LOS ANGELES DEPARTING HONG KONG FRIDAY WE ARE NOT ABLE TO APPROVE BECAUSE SCHEDULE YOU SUBMITTED DOES NOT REFLECT THAT THIS FLIGHT ORIGINATES IN U.S." IN CONVERSATION WITH EMBOFF IT BECAME QUITE CLEAR DAT ATTACHES MUCH IMPORTANCE TO LEGAL PRINCIPLE AS HE PERCEIVES IT, AND THAT (EVEN THOUGH HIS STAND UNDOUBTEDLY SUPPORTED BY HIS MINISTER) RETREAT FROM IT WOULD BE A PERSONAL HUMILIATION. THIS UNFORTUNATE FOR US BECAUSE, DESPITE CURIOUS STYLE OF DOING BUSINESS IN SOME CASES, DAT IS EMBASSY'S MOST VALUABLE CONTACT IN MINISTRY OWING HIS APPROACHABILITY, PERSONAL AUTHORITY IN A NUMBER OF FIELDS TOUCHING U.S. INTERESTS, AND DISPOSITION TO BE HELPFUL ACCORDING TO HIS LIGHTS.

5. WE ARE NOT ENTIRELY SURE HOW TO GO ABOUT LOWERING THE LIMITED OFFICIAL USE

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TEMPERATURE, BUT DEPARTMENT MIGHT CONSIDER SOOTHING INTERIM REPLY TO DAT'S REQUEST FOR RECONSIDERATION, IN WHICH WE RESERVE OUR POSITION AND INDICATE THE MATTER IS UNDER THOROUGH STUDY. THIS MIGHT PROMOTE ATMOSPHERE IN WHICH COOL AND COMPLETE TECHNICAL ARGUMENT CITING PRECEDENTS WOULD MAKE ITS MARK AT A SOMEWHAT LATER DATE. WE DO NOT KNOW WHETHER THIS WILL WORK BUT BELIEVE IT'S WORTH TRYING. DAT WILL BE IN TOKYO ON CONSULTATION UNTIL MID-DECEMBER; ON HIS RETURN ASSUME WE

COULD HAVE INTERIM REPLY IN HIS HANDS. IF ON BASIS OF PERSONAL
ACQUAINTANCE SOME MEMBER OF U.S. OFFICIAL AVIATION
COMMUNITY COULD ADDRESS PRESENT ISSUE IN A LETTER TO
RISAKOTA THIS TOO MIGHT BE HELPFUL IN GETTING OUR IDEAS
ACROSS IN WAY THAT DOES NOT INCREASE HIS EVIDENT SENSE OF
BEING UNDER COERCIVE PRESSURE.
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Disposition Date: 28 MAY 2004
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